

MEMORANDUM

TO: Senate Reforms, Restructuring and Reinventing Committee Members

FROM: Justin Winslow, VP Government Affairs

DATE: February 12, 2014

RE: **Support SB 686/HB 4958 (H-1)**

As passed by the House, HB 4958 (H-1) and its Senate companion SB 686, would amend the Michigan Employment Security Act beginning April 1 to exclude from the definition of employment two types of temporary visa employees (H-2B, J-1 Exchange Visitor Program) if certain criteria are met.

The Michigan Restaurant Association supports SB686/HB 4958 (H-1) as common sense reform to correct an unfair enforcement of the MESA that taxes employers using these temporary visa employees on behalf of the Unemployment Insurance Trust Fund despite the fact that these employees are incapable of ever claiming those benefits by the very tenets of their visa.

There are several reasons to support SB686/HB 4958 (H-1)

- The federal government exempts employers from the Federal Unemployment Tax Act (FUTA) taxes for these visa employees precisely because they are ineligible to claim the benefits.
- Several other states exempt employers from paying into their state unemployment trust fund, including Wisconsin and Ohio in our region.
- The Unemployment Insurance Trust Fund is funded exclusively through taxes on employers and therefore should be limited only for those employees that can conceivably claim those benefits.
- If enacted, the bill will have a minimal effect on the Trust Fund, but have a sizable impact to the bottom line of our seasonal employers. There are only 4,800 total employees that meet the criteria of HB 4958 (2,285 H-2B visas and 2,513 J-1 visas), minimizing the overall effect to the Fund. In fact, it is estimated that enacting the bill would impact the Fund by less than 0.5%.
- The benefit to those few affected employers would be significant, however. The Grand Hotel, for example, is erroneously paying over \$350,000 in unemployment insurance taxes every year for employees that can never claim those dollars.
- Seasonal employers endure the worst "experience rating" of any industry by the very nature of their temporary labor force, making an unfair situation worse because the rate at which they pay unemployment insurance taxes is dramatically higher than the average business.